

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

553B0299

SENATE BILL NO. 100

Introduced by: Senators Albers, Ham, and Vitter and Representatives Broderick and Fischer-Clemens

1 FOR AN ACT ENTITLED, An Act to increase the persons of whom a criminal record check
2 and a central registry background check is required with regard to schools and child welfare
3 agencies.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 23-5-12.1 be amended to read as follows:

6 23-5-12.1. The superintendent of any public school or nonpublic school or the owner or
7 operator of any child welfare agency as defined in § 26-6-1 ~~may~~ shall submit the name of any
8 person being considered for employment by the school or agency, either directly or by contract,
9 to the Division of Criminal Investigation for a criminal record check and to the Department of
10 Social Services for a central registry background check. If the division determines the person has
11 a record of criminal convictions or if the department determines that the person has been found
12 guilty of an offense involving abuse or neglect of a child or violence against a person or who has
13 a substantiated report of abuse or neglect as defined by the department by rule or whose name
14 appears on a report from any other state's central registry of abuse or neglect, the division it shall
15 notify the superintendent, owner, or operator of the criminal offenses.

Section 2. That § 26-6-14.4 be amended to read as follows:

26-6-14.4. In addition to the applicant, §§ 26-6-14.3 to 26-6-14.7, inclusive, ~~shall be~~ are applicable to criminal convictions of the following persons:

- (1) ~~Adults~~ Any adult responsible for administration or direct supervision of staff;
- (2) Any adult residing in the facility;
- (3) Any adult, including a volunteer, who ~~provides care and supervision to the~~ has primary or incidental contact with children regardless of the amount of time the adult is actually at the facility.

~~However, §§ 26-6-14.3 to 26-6-14.7, inclusive, do not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than ten days per month, if such adults are under constant supervision by adults who meet the requirements of §§ 26-6-14.3 to 26-6-14.7, inclusive.~~

Section 3. That chapter 13-42 be amended by adding thereto a NEW SECTION to read as follows:

Any applicant for a teacher's certificate or applicant for renewal or reinstatement of a teacher's certificate shall sign the waiver set forth in § 23-5-12 for the criminal record check and the central registry background check as required by § 23-5-12.1. The superintendent may require the applicant to pay for the checks. The Department of Education and Cultural Affairs shall specify, by rules promulgated pursuant to chapter 1-26, those crimes which cause an applicant to be denied certification. The department may not issue a certificate to any applicant who has any of the specified crimes on record.

Section 4. Any employee of a school district as of July 1, 1998, other than a certified teacher, shall sign the waiver set forth in § 23-5-12 for a criminal record check and a central registry background check. The superintendent of the school with such an employee shall submit the employee's name for a criminal record check and a central registry background check by

- 1 January 1, 1998. The Department of Education and Cultural Affairs shall specify, by rules
- 2 promulgated pursuant to chapter 1-26, those crimes which are unacceptable for employment.